

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MICHAEL MCCARTHY; WILLIAM R.)
BIEWENGA; LAURIE WARNER; TIMOTHY)
GALLIGAN; JIM SIMMONS; DAVID)
LANTAGNE; TROY CITY TACTICAL LLC; DON) CIVIL ACTION NO.
TOM GROUP LLC d/b/a PRECISION POINT) 1:20-cv-10701-DPW
FIREARMS; SHOOTING SUPPLY LLC;)
DOWNRANGE INC. d/b/a CAPE GUN WORKS;)
FIREARMS POLICY COALITION, INC.;)
COMMONWEALTH SECOND AMENDMENT,)
INC.; and SECOND AMENDMENT)
FOUNDATION, INC.,) **PLAINTIFFS' MOTION**
Plaintiffs,) **FOR LEAVE TO FILE**
) **A REPLY BRIEF**
))
 -against-)
))
CHARLES D. BAKER, in his Official Capacity as)
Governor of the Commonwealth of Massachusetts and)
in his Individual Capacity; MONICA BHAREL MD,)
MPH, in her Official Capacity as Commissioner of the)
Massachusetts Department of Public Health and in her)
Individual Capacity; JAMISON GAGNON, in his)
Official Capacity as Commissioner of the Department)
of Criminal Justice Information Services and in his)
Individual Capacity; ALBERT F. DUPRE, in his)
Official Capacity as Chief of the Fall River Police)
Department and in his Individual Capacity; ROBERT)
F. RUFO, in his Official Capacity as Chief of the)
Woburn Police Department and in his Individual)
Capacity; KEITH A. PELLETIER, in his Official)
Capacity as Chief of the Westport Police Department;)
and MATTHEW SONNABEND, in his Official)
Capacity as Chief of the Barnstable Police Department)
and in his Individual Capacity,)
))
Defendants.))

COME NOW the Plaintiffs, who respectfully move the Court for leave to file the reply
brief and declarations appended hereto. In support of this motion, the Plaintiffs state as follows:

1. In their opposition, the Defendants introduce evidence on various factual issues, some of which the Plaintiffs dispute. The attached reply, and supporting declarations, are needed to respond to these contentions.

2. The Defendants also make certain new arguments that go beyond the Plaintiffs' motion papers, such as their claim that the Plaintiffs that are firearms retailers lack standing. Again, a reply brief is necessary to address these new arguments.

3. Finally, in their response to the Plaintiffs' motion, the Defendants make various contentions about the import of judicial decisions. It is much more practical and efficient for the Plaintiffs to respond to these contentions in writing in advance of the hearing, rather than to do so during the hearing.

4. The substantive content of the attached reply brief is 10 pages, which is barely one-third of the length of the brief that the Defendants have filed (28 pages).

5. The Defendants advised the Plaintiffs that they would not oppose a motion for leave to file a reply brief, but on the condition that the Plaintiffs did not submit any additional evidence. In light of the contentions made in the Defendants' opposition, Plaintiffs find it necessary to submit the additional declarations supplied herewith.

6. The attached declarations serve only to rebut the Defendants' contentions regarding: (a) the availability of ammunition at Walmart; and (b) the role of retail firearms dealers in supplying arms to law enforcement.

Accordingly, the Plaintiffs respectfully request leave to file the attached reply brief and supporting declarations.

Dated: April 30, 2020

Respectfully submitted,
THE PLAINTIFFS,
By their attorneys,

/s/ David D. Jensen
David D. Jensen, Esq.
Admitted *Pro Hac Vice*
David Jensen & Associates
33 Henry Street
Beacon, New York 12508
Tel: 212.380.6615
Fax: 917.591.1318
david@djensenpllc.com

J. Steven Foley
BBO # 685741
Law Office of J. Steven Foley
100 Pleasant Street #100
Worcester, MA 01609
Tel: 508.754.1041
Fax: 508.739.4051
JSteven@attorneyfoley.com

Jason A. Guida
BBO # 667252
Principe & Strasnick, P.C.
17 Lark Avenue
Saugus, MA 01960
Tel: 617.383.4652
Fax: 781.233.9192
jason@lawguida.com

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on April 30, 2020.

/s/ David D. Jensen
David D. Jensen, Esq.

